

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 588

Introduced by Legislative Performance Audit Committee:
Beutler, 28, Chairperson; Brashear, 4; Engel, 17;
Erdman, 47; McDonald, 41; D. Pederson, 42; Price, 26

Read first time January 18, 2005

Committee: Executive Board

A BILL

1 FOR AN ACT relating to the Legislature; to amend sections 50-1203
2 to 50-1205, 50-1213 to 50-1215, and 77-27,119, Reissue
3 Revised Statutes of Nebraska, and sections 84-304 and
4 84-311, Revised Statutes Supplement, 2004; to change
5 provisions relating to the Legislative Performance Audit
6 Committee and the Legislative Performance Audit Section;
7 to harmonize provisions; and to repeal the original
8 sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 50-1203, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 50-1203. For purposes of the Legislative Performance
4 Audit Act:

5 (1) Agency means any department, board, commission, or
6 other governmental unit of the State of Nebraska acting or
7 purporting to act by reason of connection with the State of
8 Nebraska but does not include (a) any court, (b) the Governor or
9 his or her personal staff, (c) any political subdivision or entity
10 thereof, or (d) any entity of the federal government;

11 (2) Auditor means the Auditor of Public Accounts whose
12 powers and duties are prescribed in section 84-304;

13 (3) Business day means a day on which state offices are
14 open for regular business;

15 (4) Committee means the Legislative Performance Audit
16 Committee;

17 (5) Committee report means the report released by the
18 committee at the conclusion of a performance audit;

19 (6) Majority vote means a vote by the majority of the
20 committee's members;

21 (7) Performance audit means an objective and systematic
22 examination of evidence for the purpose of providing an independent
23 assessment of the performance of a government organization,
24 program, activity, or function in order to provide information to
25 improve public accountability and facilitate decisionmaking by
26 parties with responsibility to oversee or initiate corrective
27 action. Performance audits may have a variety of objectives,
28 including the assessment of a program's effectiveness and results,

1 economy and efficiency, internal control, and compliance with legal
2 or other requirements;

3 (8) Preaudit inquiry means an investigatory process
4 during which the section gathers and examines evidence to determine
5 if a performance audit topic has merit;

6 (9) Section means the Legislative Performance Audit
7 Section; ~~and~~

8 ~~(9)~~ (10) Section director means the head of the section.
9 The section director shall be selected by the Executive Board of
10 the Legislative Council from the following: The Director of
11 Research of the Legislature or a staff member of the Director of
12 Research of the Legislature nominated by the director; and

13 (11) Working papers means those documents containing
14 evidence to support the section's findings, opinions, conclusions,
15 and judgments and includes the collection of evidence prepared or
16 obtained by the section during the performance audit or preaudit
17 inquiry.

18 Sec. 2. Section 50-1204, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 50-1204. (1) The Legislative Performance Audit Committee
21 is hereby established as a special legislative committee to
22 exercise the authority and perform the duties provided for in the
23 Legislative Performance Audit Act. The committee shall be composed
24 of the Speaker of the Legislature, the chairperson of the Executive
25 Board of the Legislative Council, the chairperson of the
26 Appropriations Committee of the Legislature, and four other members
27 of the Legislature to be chosen by the Executive Board of the
28 Legislative Council. The executive board shall ensure that the

1 Legislative Performance Audit Committee includes adequate
2 geographic representation. The chairperson and vice-chairperson of
3 the Legislative Performance Audit Committee shall be elected by
4 majority vote. The committee shall be subject to all rules
5 prescribed by the Legislature. The committee shall be
6 reconstituted at the beginning of each Legislature and shall meet
7 as needed.

8 (2) The Legislative Performance Audit Section is
9 established. The section shall be administered by the section
10 director and shall be composed of employees of the Legislature
11 assigned to conduct performance audits. The section shall be the
12 custodian of all records generated by the committee or section
13 except as provided by section 50-1213 or subdivision (10)(c) of
14 section 77-27,119. The section shall inform the Legislative Fiscal
15 Analyst of its activities and consult with him or her as needed.
16 The section shall operate under the general direction of the
17 committee.

18 Sec. 3. Section 50-1205, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 50-1205. The committee shall:

21 (1) Adopt, by majority vote, procedures consistent with
22 the Legislative Performance Audit Act to govern the business of the
23 committee and the conduct of performance audits;

24 (2) Ensure that performance audits done by the committee
25 are not undertaken based on or influenced by special or partisan
26 interests;

27 (3) Review performance audit requests and select, by
28 majority vote, agencies or agency programs for performance audit;

1 (4) Review, amend, if necessary, and approve a scope
2 statement and an audit plan for each performance audit;

3 (5) Respond to inquiries regarding performance audits;

4 (6) Inspect or approve the inspection of the premises, or
5 any parts thereof, of any agency or any property owned, leased, or
6 operated by an agency as frequently as is necessary in the opinion
7 of the committee to carry out a performance audit or preaudit
8 inquiry;

9 ~~(7) Inspect and examine, or approve the inspection and~~
10 ~~examination of, the records and documents of any agency as a part~~
11 ~~of a performance audit or preaudit inquiry,~~

12 ~~(8)~~ Administer oaths, issue subpoenas, compel the
13 attendance of witnesses and the production of any papers, books,
14 accounts, documents, and testimony, and cause the depositions of
15 witnesses either residing within or without the state to be taken
16 in the manner prescribed by law for taking depositions in civil
17 actions in the district court;

18 ~~(9)~~ (8) Review completed performance audit reports
19 prepared by the section, together with comments from the evaluated
20 agency, and adopt recommendations and incorporate them into a
21 committee report;

22 ~~(10)~~ (9) Release the committee report to the public and
23 distribute it to the Legislature with or without benefit of a
24 public hearing;

25 ~~(11)~~ (10) Hold a public hearing, at the committee's
26 discretion, for the purpose of receiving testimony prior to
27 issuance of the committee report;

28 ~~(12)~~ (11) Establish a system to ascertain and monitor an

1 agency's implementation of the recommendations contained in the
2 committee report and compliance with any statutory changes
3 resulting from the recommendations;

4 ~~(13)~~ (12) Issue an annual report each September, to be
5 prepared by the section director and approved by the committee,
6 summarizing recommendations made pursuant to reports of performance
7 audits during the previous fiscal year and the status of
8 implementation of those recommendations;

9 ~~(14)~~ Serve as custodian of all records generated by the
10 committee or the section during a performance audit;

11 ~~(15)~~ (13) Consult with the section director regarding the
12 staffing and budgetary needs of the section and assist in
13 presenting budget requests to the Appropriations Committee of the
14 Legislature;

15 ~~(16)~~ (14) Approve or reject, within the budgetary limits
16 of the section, contracts to retain consultants to assist with
17 performance audits requiring specialized knowledge or expertise.
18 Requests for consultant contracts shall be approved by the section
19 director and presented to the Legislative Performance Audit
20 Committee by the section director. A majority vote shall be
21 required to approve consultant contract requests. For purposes of
22 section 50-1213, any consultant retained to assist with a
23 performance audit or preaudit inquiry shall be considered an
24 employee of the section during the course of the contract; and

25 ~~(17)~~ (15) At its discretion, and with the agreement of
26 the auditor, conduct joint fiscal or performance audits with the
27 auditor. The details of any joint audit shall be agreed upon in
28 writing by the committee and the auditor.

1 Sec. 4. Section 50-1213, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 50-1213. (1) The section shall have access to any and
4 all information and records, confidential or otherwise, of any
5 agency, in whatever form they may be, unless the section is denied
6 such access by federal law or explicitly named and denied such
7 access by state law. If such a law exists, the agency shall
8 provide the committee with a written explanation of its inability
9 to produce such information and records and, after reasonable
10 accommodations are made, shall grant the section access to all
11 information and records or portions thereof that can legally be
12 reviewed. Accommodations that may be negotiated between the agency
13 and the committee include, but are not limited to, a requirement
14 that specified information or records be reviewed on agency
15 premises and a requirement that specified working papers be
16 securely stored on agency premises.

17 (2) Except as provided in this section, any confidential
18 information or confidential records shared with the section shall
19 remain confidential and shall not be shared by an employee of the
20 section with any person who is not an employee of the section,
21 including any member of the committee. If a dispute arises between
22 the section and the agency as to the accuracy of a performance
23 audit or preaudit inquiry involving confidential information or
24 confidential records, the Speaker of the Legislature, as a member
25 of the committee, will be allowed access to the confidential
26 information or confidential records for the purpose of assessing
27 the accuracy of the performance audit or preaudit inquiry.

28 (3) Except as provided in subdivision (10)(c) of section

1 77-27,119, if the speaker knowingly divulges or makes known, in any
2 manner not permitted by law, confidential information or
3 confidential records, he or she shall be guilty of a Class III
4 misdemeanor. Except as provided in subdivision (10)(c) of section
5 77-27,119, if any employee or former employee of the section
6 knowingly divulges or makes known, in any manner not permitted by
7 law, confidential information or confidential records, he or she
8 shall be guilty of a Class III misdemeanor and, in the case of an
9 employee, shall be dismissed.

10 (4) No proceeding of the committee ~~or section~~ or opinion
11 or expression of any member of the committee or section employee
12 acting at the direction of the committee shall be reviewable in any
13 court. No member of the committee or section employee acting at
14 the direction of the committee shall be required to testify or
15 produce evidence in any judicial or administrative proceeding
16 concerning matters relating to the ~~conduct of a performance audit~~
17 work of the section except in a proceeding brought to enforce the
18 Legislative Performance Audit Act.

19 (5) Pursuant to ~~section 84-712.05~~ sections 84-712 and
20 84-712.01 and subdivision (5) of section 84-712.05, the working
21 papers obtained or produced by the committee or section ~~in~~
22 ~~conjunction with a performance audit~~ shall not be considered public
23 ~~documents~~ records. The committee may make the working papers
24 available for purposes of an external quality control review as
25 required by generally accepted government auditing standards.
26 However, any reports made from such external quality control review
27 shall not make public any information which would be considered
28 confidential when in the possession of the section.

1 Sec. 5. Section 50-1214, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 50-1214. By majority vote, the committee may decide not
4 to include in ~~the committee report or any other performance audit~~
5 any document that will be a public record the names of persons
6 providing information ~~as a part of any performance audit to the~~
7 section or committee.

8 No employee of the State of Nebraska who provides
9 information to the committee or section ~~as part of a performance~~
10 ~~audit~~ shall be subject to any penalties, sanctions, or restrictions
11 in connection with his or her employment as a result of the
12 provision of such information.

13 Sec. 6. Section 50-1215, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 50-1215. Any person who willfully obstructs or hinders
16 the conduct of a performance audit or preaudit inquiry or who
17 willfully misleads or attempts to mislead any person charged with
18 the duty of conducting a performance audit or preaudit inquiry
19 shall be guilty of a Class II misdemeanor.

20 Sec. 7. Section 77-27,119, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-27,119. (1) The Tax Commissioner shall administer and
23 enforce the income tax imposed by sections 77-2714 to 77-27,135,
24 and he or she is authorized to conduct hearings, to adopt and
25 promulgate such rules and regulations, and to require such facts
26 and information to be reported as he or she may deem necessary to
27 enforce the income tax provisions of such sections, except that
28 such rules, regulations, and reports shall not be inconsistent with

1 the laws of this state or the laws of the United States. The Tax
2 Commissioner may for enforcement and administrative purposes divide
3 the state into a reasonable number of districts in which branch
4 offices may be maintained.

5 (2) (a) The Tax Commissioner may prescribe the form and
6 contents of any return or other document required to be filed under
7 the income tax provisions. Such return or other document shall be
8 compatible as to form and content with the return or document
9 required by the laws of the United States. The form shall have a
10 place where the taxpayer shall designate the high school district
11 in which he or she lives and the county in which the high school
12 district is headquartered. The Tax Commissioner shall adopt and
13 promulgate such rules and regulations as may be necessary to insure
14 compliance with this requirement.

15 (b) The State Department of Education, with the
16 assistance and cooperation of the Department of Revenue, shall
17 develop a uniform system for numbering all school districts in the
18 state. Such system shall be consistent with the data processing
19 needs of the Department of Revenue and shall be used for the school
20 district identification required by subdivision (a) of this
21 subsection.

22 (c) The proper filing of an income tax return shall
23 consist of the submission of such form as prescribed by the Tax
24 Commissioner or an exact facsimile thereof with sufficient
25 information provided by the taxpayer on the face of the form from
26 which to compute the actual tax liability. Each taxpayer shall
27 include such taxpayer's correct social security number or state
28 identification number and the school district identification number

1 of the school district in which the taxpayer resides on the face of
2 the form. A filing is deemed to occur when the required
3 information is provided.

4 (3) The Tax Commissioner, for the purpose of ascertaining
5 the correctness of any return or other document required to be
6 filed under the income tax provisions, for the purpose of
7 determining corporate income, individual income, and withholding
8 tax due, or for the purpose of making an estimate of taxable income
9 of any person, shall have the power to examine or to cause to have
10 examined, by any agent or representative designated by him or her
11 for that purpose, any books, papers, records, or memoranda bearing
12 upon such matters and may by summons require the attendance of the
13 person responsible for rendering such return or other document or
14 remitting any tax, or any officer or employee of such person, or
15 the attendance of any other person having knowledge in the
16 premises, and may take testimony and require proof material for his
17 or her information, with power to administer oaths or affirmations
18 to such person or persons.

19 (4) The time and place of examination pursuant to this
20 section shall be such time and place as may be fixed by the Tax
21 Commissioner and as are reasonable under the circumstances. In the
22 case of a summons, the date fixed for appearance before the Tax
23 Commissioner shall not be less than twenty days from the time of
24 service of the summons.

25 (5) No taxpayer shall be subjected to unreasonable or
26 unnecessary examinations or investigations.

27 (6) Except in accordance with proper judicial order or as
28 otherwise provided by law, it shall be unlawful for the Tax

1 Commissioner, any officer or employee of the Tax Commissioner, any
2 person engaged or retained by the Tax Commissioner on an
3 independent contract basis, any person who pursuant to this section
4 is permitted to inspect any report or return or to whom a copy, an
5 abstract, or a portion of any report or return is furnished, or any
6 other person to divulge, make known, or use in any manner the
7 amount of income or any particulars set forth or disclosed in any
8 report or return required except for the purpose of enforcing
9 sections 77-2714 to 77-27,135. The officers charged with the
10 custody of such reports and returns shall not be required to
11 produce any of them or evidence of anything contained in them in
12 any action or proceeding in any court, except on behalf of the Tax
13 Commissioner in an action or proceeding under the provisions of the
14 tax law to which he or she is a party or on behalf of any party to
15 any action or proceeding under such sections when the reports or
16 facts shown thereby are directly involved in such action or
17 proceeding, in either of which events the court may require the
18 production of, and may admit in evidence, so much of such reports
19 or of the facts shown thereby as are pertinent to the action or
20 proceeding and no more. Nothing in this section shall be construed
21 (a) to prohibit the delivery to a taxpayer, his or her duly
22 authorized representative, or his or her successors, receivers,
23 trustees, personal representatives, administrators, assignees, or
24 guarantors, if directly interested, of a certified copy of any
25 return or report in connection with his or her tax, (b) to prohibit
26 the publication of statistics so classified as to prevent the
27 identification of particular reports or returns and the items
28 thereof, (c) to prohibit the inspection by the Attorney General,

1 other legal representatives of the state, or a county attorney of
2 the report or return of any taxpayer who brings an action to review
3 the tax based thereon, against whom an action or proceeding for
4 collection of tax has been instituted, or against whom an action,
5 proceeding, or prosecution for failure to comply with the Nebraska
6 Revenue Act of 1967 is being considered or has been commenced, (d)
7 to prohibit furnishing to the Nebraska Workers' Compensation Court
8 the names, addresses, and identification numbers of employers, and
9 such information shall be furnished on request of the court, (e) to
10 prohibit the disclosure of information and records to a collection
11 agency contracting with the Tax Commissioner pursuant to sections
12 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
13 information pursuant to section 77-4110, (g) to prohibit the
14 disclosure to the Public Employees Retirement Board of the
15 addresses of individuals who are members of the retirement systems
16 administered by the board, and such information shall be furnished
17 to the board solely for purposes of its administration of the
18 retirement systems upon written request, which request shall
19 include the name and social security number of each individual for
20 whom an address is requested, (h) to prohibit the disclosure to the
21 Department of Labor of tax return information pertaining to
22 individuals, corporations, and businesses determined by the
23 Department of Labor to be delinquent in the payment of combined tax
24 or in the repayment of benefit overpayments, and such disclosure
25 shall be strictly limited to information necessary for the
26 administration of the Employment Security Law, (i) to prohibit the
27 disclosure to the Department of Motor Vehicles of tax return
28 information pertaining to individuals, corporations, and businesses

1 determined by the Department of Motor Vehicles to be delinquent in
2 the payment of amounts due under agreements pursuant to the
3 International Fuel Tax Agreement Act, and such disclosure shall be
4 strictly limited to information necessary for the administration of
5 the act, or (j) to prohibit the disclosure under section 42-358.08
6 to any court-appointed individuals, the county attorney, any
7 authorized attorney, or the Department of Health and Human Services
8 of an absent parent's address, social security number, amount of
9 income, health insurance information, and employer's name and
10 address for the exclusive purpose of establishing and collecting
11 child or spousal support. Information so obtained shall be used
12 for no other purpose. Any person who violates this subsection
13 shall be guilty of a felony and shall upon conviction thereof be
14 fined not less than one hundred dollars nor more than five hundred
15 dollars, or be imprisoned not more than five years, or be both so
16 fined and imprisoned, in the discretion of the court and shall be
17 assessed the costs of prosecution. If the offender is an officer
18 or employee of the state, he or she shall be dismissed from office
19 and be ineligible to hold any public office in this state for a
20 period of two years thereafter.

21 (7) Reports and returns required to be filed under income
22 tax provisions of sections 77-2714 to 77-27,135 shall be preserved
23 until the Tax Commissioner orders them to be destroyed.

24 (8) Notwithstanding the provisions of subsection (6) of
25 this section, the Tax Commissioner may permit the Secretary of the
26 Treasury of the United States or his or her delegates or the proper
27 officer of any state imposing an income tax, or the authorized
28 representative of either such officer, to inspect the income tax

1 returns of any taxpayer or may furnish to such officer or his or
2 her authorized representative an abstract of the return of income
3 of any taxpayer or supply him or her with information concerning an
4 item of income contained in any return or disclosed by the report
5 of any investigation of the income or return of income of any
6 taxpayer, but such permission shall be granted only if the statutes
7 of the United States or of such other state, as the case may be,
8 grant substantially similar privileges to the Tax Commissioner of
9 this state as the officer charged with the administration of the
10 income tax imposed by sections 77-2714 to 77-27,135.

11 (9) Notwithstanding the provisions of subsection (6) of
12 this section, the Tax Commissioner may permit the Postal Inspector
13 of the United States Postal Service or his or her delegates to
14 inspect the reports or returns of any person filed pursuant to the
15 Nebraska Revenue Act of 1967 when information on the reports or
16 returns is relevant to any action or proceeding instituted or being
17 considered by the United States Postal Service against such person
18 for the fraudulent use of the mails to carry and deliver false and
19 fraudulent tax returns to the Tax Commissioner with the intent to
20 defraud the State of Nebraska or to evade the payment of Nebraska
21 state taxes.

22 (10) (a) Notwithstanding the provisions of subsection (6)
23 of this section, the Tax Commissioner shall, upon written request
24 by the Auditor of Public Accounts or the Legislative Performance
25 Audit Committee, make tax returns and tax return information open
26 to inspection by or disclosure to officers and employees of the
27 Auditor of Public Accounts or Legislative Performance Audit Section
28 employees for the purpose of and to the extent necessary in making

1 an audit of the Department of Revenue pursuant to section 50-1205
2 or 84-304. The Auditor of Public Accounts or Legislative
3 Performance Audit Section shall statistically and randomly select
4 the tax returns and tax return information to be audited based upon
5 a computer tape provided by the Department of Revenue which
6 contains only total population documents without specific
7 identification of taxpayers. The Tax Commissioner shall have the
8 authority to approve the statistical sampling method used by the
9 Auditor of Public Accounts or Legislative Performance Audit
10 Section. Confidential tax returns and tax return information shall
11 be audited only upon the premises of the Department of Revenue.
12 All audit workpapers pertaining to the audit of the Department of
13 Revenue shall be stored in a secure place in the Department of
14 Revenue.

15 (b) No officer or employee of the Auditor of Public
16 Accounts or Legislative Performance Audit Section shall disclose to
17 any person, other than another officer or employee of the Auditor
18 of Public Accounts or Legislative Performance Audit Section
19 employee whose official duties require such disclosure, any return
20 or return information described in the Nebraska Revenue Act of 1967
21 in a form which can be associated with or otherwise identify,
22 directly or indirectly, a particular taxpayer.

23 (c) Any person who violates the provisions of this
24 subsection shall be guilty of a Class IV felony and, in the
25 discretion of the court, may be assessed the costs of prosecution.
26 The guilty officer or employee shall be dismissed from employment
27 and be ineligible to hold any position of employment with the State
28 of Nebraska for a period of two years thereafter. For purposes of

1 this subsection, officer or employee shall include a former officer
2 or employee of the Auditor of Public Accounts or former Legislative
3 Performance Audit Section employee.

4 (11) For purposes of subsections (10) through (13) of
5 this section:

6 (a) Tax returns shall mean any tax or information return
7 or claim for refund required by, provided for, or permitted under
8 sections 77-2714 to 77-27,135 which is filed with the Tax
9 Commissioner by, on behalf of, or with respect to any person and
10 any amendment or supplement thereto, including supporting
11 schedules, attachments, or lists which are supplemental to or part
12 of the filed return;

13 (b) Return information shall mean:

14 (i) A taxpayer's identification number and (A) the
15 nature, source, or amount of his or her income, payments, receipts,
16 deductions, exemptions, credits, assets, liabilities, net worth,
17 tax liability, tax withheld, deficiencies, overassessments, or tax
18 payments, whether the taxpayer's return was, is being, or will be
19 examined or subject to other investigation or processing or (B) any
20 other data received by, recorded by, prepared by, furnished to, or
21 collected by the Tax Commissioner with respect to a return or the
22 determination of the existence or possible existence of liability
23 or the amount of liability of any person for any tax, penalty,
24 interest, fine, forfeiture, or other imposition or offense; and

25 (ii) Any part of any written determination or any
26 background file document relating to such written determination;
27 and

28 (c) Disclosures shall mean the making known to any person

1 in any manner a return or return information.

2 (12) The Auditor of Public Accounts or the director of
3 the Legislative Performance Audit Section shall (a) notify the Tax
4 Commissioner in writing thirty days prior to the beginning of an
5 audit of his or her intent to conduct an audit, (b) provide an
6 audit plan, and (c) provide a list of the tax returns and tax
7 return information identified for inspection during the audit.

8 (13) The Auditor of Public Accounts or Legislative
9 Performance Audit Section shall, as a condition for receiving tax
10 returns and tax return information: (a) Subject ~~his or her~~
11 employees involved in the audit to the same confidential
12 information safeguards and disclosure procedures as required of
13 Department of Revenue employees; (b) establish and maintain a
14 permanent system of standardized records with respect to any
15 request for tax returns or tax return information, the reason for
16 such request, and the date of such request and any disclosure of
17 the tax return or tax return information; (c) establish and
18 maintain a secure area or place in the Department of Revenue in
19 which the tax returns, tax return information, or audit workpapers
20 shall be stored; (d) restrict access to the tax returns or tax
21 return information only to persons whose duties or responsibilities
22 require access; (e) provide such other safeguards as the Tax
23 Commissioner determines to be necessary or appropriate to protect
24 the confidentiality of the tax returns or tax return information;
25 (f) provide a report to the Tax Commissioner which describes the
26 procedures established and utilized by the Auditor of Public
27 Accounts or Legislative Performance Audit Section for insuring the
28 confidentiality of tax returns, tax return information, and audit

1 workpapers; and (g) upon completion of use of such returns or tax
2 return information, return to the Tax Commissioner such returns or
3 tax return information, along with any copies.

4 (14) The Tax Commissioner may permit other tax officials
5 of this state to inspect the tax returns and reports filed under
6 sections 77-2714 to 77-27,135, but such inspection shall be
7 permitted only for purposes of enforcing a tax law and only to the
8 extent and under the conditions prescribed by the rules and
9 regulations of the Tax Commissioner.

10 (15) The Tax Commissioner shall compile the school
11 district information required by subsection (2) of this section.
12 Insofar as it is possible, such compilation shall include, but not
13 be limited to, the total adjusted gross income of each school
14 district in the state. The Tax Commissioner shall adopt and
15 promulgate such rules and regulations as may be necessary to insure
16 that such compilation does not violate the confidentiality of any
17 individual income tax return nor conflict with any other provisions
18 of state or federal law.

19 Sec. 8. Section 84-304, Revised Statutes Supplement,
20 2004, is amended to read:

21 84-304. It shall be the duty of the Auditor of Public
22 Accounts:

23 (1) To give information in writing to the Legislature,
24 whenever required, upon any subject relating to the fiscal affairs
25 of the state or with regard to any duty of his or her office;

26 (2) To furnish offices for himself or herself and all
27 fuel, lights, books, blanks, forms, paper, and stationery required
28 for the proper discharge of the duties of his or her office;

1 (3) To examine or cause to be examined, at such time as
2 he or she shall determine, books, accounts, vouchers, records, and
3 expenditures of all state officers, state bureaus, state boards,
4 state commissioners, the state library, societies and associations
5 supported by the state, state institutions, state colleges, and the
6 University of Nebraska, except when required to be performed by
7 other officers or persons. Such examinations shall be done in
8 accordance with generally accepted government auditing standards
9 for financial audits and attestation engagements set forth in
10 Government Auditing Standards (2003 Revision), published by the
11 Comptroller General of the United States, General Accounting
12 Office, and except as provided in subdivision (12) of this section,
13 subdivision ~~(17)~~ (15) of section 50-1205, and section 84-322, shall
14 not include performance audits, whether conducted pursuant to
15 attestation engagements or performance audit standards as set forth
16 in Government Auditing Standards (2003 Revision), published by the
17 Comptroller General of the United States, General Accounting
18 Office;

19 (4) (a) To examine or cause to be examined, at the expense
20 of the political subdivision, when the Auditor of Public Accounts
21 determines such examination necessary or when requested by the
22 political subdivision, the books, accounts, vouchers, records, and
23 expenditures of any agricultural association formed under Chapter
24 2, article 20, county agricultural society, joint airport authority
25 formed under the Joint Airport Authorities Act, city or county
26 airport authority, bridge commission created pursuant to section
27 39-868, cemetery district, development district, drainage district,
28 health district, local public health department as defined in

1 section 71-1626, historical society, hospital authority or
2 district, county hospital, housing agency as defined in section
3 71-1575, irrigation district, county or municipal library,
4 community mental health center, railroad transportation safety
5 district, rural water district, township, Wyuka Cemetery, any
6 village, any political subdivision with the authority to levy a
7 property tax or a toll, or any entity created pursuant to the Joint
8 Public Agency Act which has separately levied a property tax based
9 on legal authority for a joint public agency to levy such a tax
10 independent of the public agencies forming such joint public
11 agency.

12 (b) The Auditor of Public Accounts may waive the audit
13 requirement of subdivision (4)(a) of this section upon the
14 submission by the political subdivision of a written request in a
15 form prescribed by the auditor. The auditor shall notify the
16 political subdivision in writing of the approval or denial of the
17 request for a waiver;

18 (5) To report promptly to the Governor and the
19 appropriate standing committee of the Legislature the fiscal
20 condition shown by such examinations conducted by the auditor,
21 including any irregularities or misconduct of officers or
22 employees, any misappropriation or misuse of public funds or
23 property, and any improper system or method of bookkeeping or
24 condition of accounts. In addition, if, in the normal course of
25 conducting an audit in accordance with subdivision (3) of this
26 section, the auditor discovers any potential problems related to
27 the effectiveness, efficiency, or performance of state programs, he
28 or she shall immediately report them in writing to the Legislative

1 Performance Audit Committee which may investigate the issue
2 further, report it to the appropriate standing committee of the
3 Legislature, or both;

4 (6) (a) To examine or cause to be examined the books,
5 accounts, vouchers, records, and expenditures of a fire protection
6 district. The expense of the examination shall be paid by the
7 political subdivision.

8 (b) Whenever the expenditures of a fire protection
9 district are one hundred fifty thousand dollars or less per fiscal
10 year, the fire protection district shall be audited no more than
11 once every five years except as directed by the board of directors
12 of the fire protection district or unless the auditor receives a
13 verifiable report from a third party indicating any irregularities
14 or misconduct of officers or employees of the fire protection
15 district, any misappropriation or misuse of public funds or
16 property, or any improper system or method of bookkeeping or
17 condition of accounts of the fire protection district. In the
18 absence of such a report, the auditor may waive the five-year audit
19 requirement upon the submission of a written request by the fire
20 protection district in a form prescribed by the auditor. The
21 auditor shall notify the fire protection district in writing of the
22 approval or denial of a request for waiver of the five-year audit
23 requirement. Upon approval of the request for waiver of the
24 five-year audit requirement, a new five-year audit period shall
25 begin.

26 (c) Whenever the expenditures of a fire protection
27 district exceed one hundred fifty thousand dollars in a fiscal
28 year, the auditor may waive the audit requirement upon the

1 submission of a written request by the fire protection district in
2 a form prescribed by the auditor. The auditor shall notify the
3 fire protection district in writing of the approval or denial of a
4 request for waiver. Upon approval of the request for waiver, a new
5 five-year audit period shall begin for the fire protection district
6 if its expenditures are one hundred fifty thousand dollars or less
7 per fiscal year in subsequent years;

8 (7) To appoint two assistant deputies (a) whose entire
9 time shall be devoted to the service of the state as directed by
10 the auditor, (b) who shall be certified public accountants with at
11 least five years' experience, (c) who shall be selected without
12 regard to party affiliation or to place of residence at the time of
13 appointment, (d) who shall promptly report in duplicate to the
14 auditor the fiscal condition shown by each examination, including
15 any irregularities or misconduct of officers or employees, any
16 misappropriation or misuse of public funds or property, and any
17 improper system or method of bookkeeping or condition of accounts,
18 and it shall be the duty of the auditor to file promptly with the
19 Governor a duplicate of such report, and (e) who shall qualify by
20 taking an oath which shall be filed in the office of the Secretary
21 of State;

22 (8) To conduct audits and related activities for state
23 agencies, political subdivisions of this state, or grantees of
24 federal funds disbursed by a receiving agency on a contractual or
25 other basis for reimbursement to assure proper accounting by all
26 such agencies, political subdivisions, and grantees for funds
27 appropriated by the Legislature and federal funds disbursed by any
28 receiving agency. The auditor may contract with any political

1 subdivision to perform the audit of such political subdivision
2 required by or provided for in section 23-1608 or 79-1229 or this
3 section and charge the political subdivision for conducting the
4 audit. The fees charged by the auditor for conducting audits on a
5 contractual basis shall be in an amount sufficient to pay the cost
6 of the audit. The fees remitted to the auditor for such audits and
7 services shall be deposited in the Auditor of Public Accounts Cash
8 Fund;

9 (9) To conduct all audits and examinations in a timely
10 manner and in accordance with the standards for audits of
11 governmental organizations, programs, activities, and functions
12 published by the Comptroller General of the United States;

13 (10) To develop a plan for implementing on-line filing of
14 budgeted and actual financial information by political
15 subdivisions. Such plan shall describe the technology and staff
16 resources necessary to implement on-line filing of such information
17 and the costs of these resources. Such plan shall be presented to
18 the Clerk of the Legislature on or before January 15, 2003;

19 (11) To develop and maintain an annual budget and actual
20 financial information reporting system that is accessible on-line
21 by the public; and

22 (12) When authorized, to conduct joint audits with the
23 Legislative Performance Audit Committee as described in section
24 50-1205.

25 Sec. 9. Section 84-311, Revised Statutes Supplement,
26 2004, is amended to read:

27 84-311. (1) All final audit reports issued by the
28 Auditor of Public Accounts shall be maintained permanently as a

1 public record in the office of the Auditor of Public Accounts.
2 Working papers and other audit files maintained by the Auditor of
3 Public Accounts are not public records and are exempt from sections
4 84-712 to 84-712.05. The information contained in working papers
5 and audit files prepared pursuant to a specific audit is not
6 subject to disclosure except to a county attorney or the Attorney
7 General in connection with an investigation made or action taken in
8 the course of the attorney's official duties or to the Legislative
9 Performance Audit Committee in the course of the committee's
10 official duties and pursuant to the requirements of subdivision
11 ~~(17)~~ (15) of section 50-1205 or subdivision (5) of section 84-304.
12 Public entities being audited and the federal agencies that have
13 made grants to public entities being audited shall also have access
14 to the relevant working papers and audit files. For purposes of
15 this subsection, working papers means those documents containing
16 evidence to support the auditor's findings, opinions, conclusions,
17 and judgments and includes the collection of evidence prepared or
18 obtained by the auditor during the audit. The Auditor of Public
19 Accounts may make the working papers available for purposes of an
20 external quality control review as required by generally accepted
21 government auditing standards. However, any reports made from such
22 external quality control review shall not make public any
23 information which would be considered confidential under this
24 section when in the possession of the Auditor of Public Accounts.

25 (2) If the Auditor of Public Accounts or any employee of
26 the Auditor of Public Accounts knowingly divulges or makes known in
27 any manner not permitted by law any record, document, or
28 information, the disclosure of which is restricted by law, he or

1 she is subject to the same penalties provided in section 84-712.09.

2 Sec. 10. Original sections 50-1203 to 50-1205, 50-1213
3 to 50-1215, and 77-27,119, Reissue Revised Statutes of Nebraska,
4 and sections 84-304 and 84-311, Revised Statutes Supplement, 2004,
5 are repealed.